

## REMARKS

Claims 1-18 are pending and stand rejected. All pending claims are believed to be allowable over the references cited by the Examiner as discussed below. Accordingly, a Notice of Allowance for the present application is respectfully requested.

### Rejection Under 35 U.S.C. §102(e)

Claims 1-4 and 10 stand rejected under 35 U.S.C. §102(e) as being anticipated by Mattrey (USPN 6,444,192).

Independent claim 1 generally recites a method for removing a sentinel lymph node, including *injecting a radiological contrast agent* detectable by an imaging modality, identifying a sentinel lymph node by imaging *utilizing the imaging modality*, introducing a percutaneous excision device, and excising the identified sentinel lymph node using the percutaneous excision device, where the introducing and/or the excising is *performed under guidance by imaging* at least portions of the identified sentinel lymph node *and the excision device*.

In contrast, Mattrey does not disclose or suggest performing the introduction and/or excising using the percutaneous excision device under guidance by imaging the excision device. Mattrey discloses surgically removing

Although Mattrey discloses per-operative or intraoperative mapping of the affected lymphatic structure, Mattrey does not disclose that the excision device be imaged nor that the excision be performed under the guidance of the imaging. Mattrey merely discloses the mapping of the affected lymphatic structure using the imaging.

In view of the foregoing, withdrawal of the rejection of independent claim 1 as well as claims dependent therefrom under 35 U.S.C. §102(e) is respectfully requested.

Claims 11-15 and 17 stand rejected under 35 U.S.C. §102(b) as being anticipated by Goldenberg (USPN 6,096,289).

Independent claim 11 generally recites a method including injecting a radiological contrast agent and a second agent into an area of interest, imaging at least one area of draining lymph nodes utilizing a first imaging modality capable of detecting the radiological contrast agent, and excising, using a percutaneous excision device, the identified *sentinel lymph node*,

where the imaging and/or excising includes detection of the *sentinel lymph node* utilizing the second agent to confirm identification of the sentinel lymph node.

In contrast, Goldenberg fails to disclose or suggest injecting a radiological contrast agent into the *human breast* and also fails to disclose or suggest identifying a *sentinel lymph node* using an imaging modality, as generally recited in independent claim 11.

Goldenberg also fails to describe or suggest the removal of the *sentinel lymph node*, and in particular, the user of a percutaneous device to remove the *sentinel lymph node*.

In view of the foregoing, withdrawal of the rejection of independent claim 11 as well as claims dependent therefrom under 35 U.S.C. §102(b) is respectfully requested.

### **Rejections Under 35 U.S.C. §103**

Claims 5-9, 16, and 18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Mattrey in view of Goldenberg.

However, dependent claims 5-9, 16, and 18 are believed to be allowable at least because the independent claims 1 and 11 from which they variously depend are allowable as discussed above.

In view of the foregoing, withdrawal of the rejection of claims 5-9, 16, and 18 under 35 U.S.C. §103(a) is respectfully requested.

### **CONCLUSION**

Applicants believe that all pending claims are allowable and respectfully request a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

In the unlikely event that the transmittal letter accompanying this document is separated from this document and the Patent Office determines that an Extension of Time under 37 CFR 1.136 and/or any other relief is required, Applicant hereby petitions for any required relief including Extensions of Time and/or any other relief and authorizes the Commissioner to charge

the cost of such petitions and/or other fees due in connection with the filing of this document to  
Deposit Account No. **50-1217** (Order No. **MNOAP004**).

Respectfully submitted,



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